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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2009-329**

11 **KIMBERLY KAY HARRISON**
12 **P.O. Box 22401**
13 **Carmel, CA 93922**
Registered Nurse License No. 368012

ACCUSATION

14 Respondent.

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17 Complainant alleges:

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19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about January 31, 1984, the Board of Registered Nursing issued Registered
24 Nurse License Number 368012 to Kimberly Kay Harrison (Respondent). The Registered Nurse
25 License expired on November 30, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

..."

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

1 “(b) Use any controlled substance as defined in Division 10 (commencing with Section
2 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
3 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
4 himself or herself, any other person, or the public or to the extent that such use impairs his or her
5 ability to conduct with safety to the public the practice authorized by his or her license.

6 ...”

7 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
10 Code, the Board may renew an expired license at any time within eight years after the expiration.

11 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 DRUGS

16 9. “Demerol” is a brand of Meperidine Hydrochloride, a Schedule II controlled
17 substance as designated by Health and Safety Code section 11055(c)(17) and is a dangerous drug
18 per Code section 4022.

19 10. “Fentanyl” is a Schedule II controlled substance as designated by Health and Safety
20 Code section 11055(c)(8) and is a dangerous drug per Code section 4022.

21 FIRST CAUSE FOR DISCIPLINE

22 (ILLEGAL POSSESSION/USE OF NARCOTICS)

23 11. Respondent is subject to disciplinary action under sections 2762(a) and/or 2762(b) in
24 that she illegally obtained, possessed, and/or used narcotics. The circumstances are as follows:

25 12. On or about May 25, 2006, while working at Central Coast Surgery Center in
26 Freedom, California, Respondent was asked by her employer to undergo a random biological
27 fluid screen, as a result of bizarre behavior at work. Respondent underwent urine testing at Quest
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1 Diagnostics, and the screen revealed that Respondent had Demerol and Fentanyl in her
2 bloodstream. Respondent did not possess a valid prescription for either narcotic.

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4 SECOND CAUSE FOR DISCIPLINE
5 (UNPROFESSIONAL CONDUCT)

6 13. Respondent is subject to disciplinary action under sections 2761(a) in that she acted
7 unprofessionally. The circumstances are as follows:

8 14. Beginning in approximately March 2006, Respondent exhibited bizarre behavior at
9 work, Central Coast Surgery Center in Freedom, California, including but not limited to: insisting
10 on controlling the narcotic count; frequent miscounting of narcotics; insisting on giving narcotics
11 to patients not assigned to Respondent; making frequent trips to the restroom after visiting the
12 narcotic cabinet; holding her arm in a flexed position for extended periods of time after visiting
13 the bathroom; wearing long sleeved shirts in the operating room; falling asleep in the operating
14 room while standing; failing to complete paperwork with patients; and lashing out at staff. In
15 addition, Respondent allegedly administered pain medication to patients who subsequently
16 complained of poor pain relief; had frequent accidental breakages of narcotic vials; needles and
17 blood were found in the restroom following Respondent's visits to the restroom; Respondent had
18 slurred and incoherent speech; she often had pinpoint pupils and a dazed expression; and she
19 often had frequent excuses for not reporting to work, or reported sudden emergencies at work.

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21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 368012, issued to
25 Kimberly Kay Harrison.

26 2. Ordering Kimberly Kay Harrison to pay the Board of Registered Nursing the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 6/30/09 *Ruth Ann Terry*
for RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2009404013